

Attorney Docket No.: FLA-0010
Inventors: Andreas Fellingner
Serial No.: 09/308,408
Filing Date: June 28, 1999
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I. Objection to Drawings

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. Specifically, the Examiner suggests that the accordion-fold position and the chambers in several parallel rows as set forth in claims 8, 12 and 15 must be shown or canceled from the claims.

Accordingly, in an earnest effort to advance the prosecution, Applicant has canceled pending claims 8-15, representing subject matter of these claims in new claims 16 and 17 for which every claimed feature is depicted in Figure 1 as filed. Withdrawal of this objection is therefore respectfully requested.

II. Rejection of Claims 8-15 under 35 U.S.C. § 112, second paragraph

Claims 8-15 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner suggests that the phrase "bacteria-tight" in claim 8 is indefinite because no sufficient structure has been presented to provide the particular feature. The Examiner

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also suggests that claim 8, 12 and 15 are indefinite for the phrase "rolled up and in an accordion folded position" as two different embodiments cannot be set forth in one claim. Claim 15 has also been rejected as indefinite because the Examiner suggests that it is not clear whether applicant is claiming the combination of the dispenser and the wrapper.

Accordingly, in an earnest effort to advance the prosecution of this case, Applicant has canceled pending claims 8-15, representing subject matter from the canceled claims in new claims 16-17. New claims 16-17 do not contain any of the phrases suggested by the Examiner to be indefinite. Accordingly, withdrawal of these rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested.

III. Rejection of Claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103 (a)

Claims 8 and 10-15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Moser et al. (U.S. Patent 3,941,248). The Examiner suggests that Moser et al. disclose a roll of blister pack comprising compartments separated by a strip 9 which is capable of being rolled up or folded in an accordion style to store swabs.

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Claim 9 has also been rejected under 35 U.S.C. § 103(a) as being unpatentable over Moser et al. The Examiner suggests that while Moser shows a square shaped bottom, it would have been obvious to provide the chamber in any variety of shapes and sizes since it would work equally well.

Applicant respectfully traverses these rejections.

At the outset, it is respectfully pointed out that claims 8-15 have been canceled. Subject matter of these claims has been represented in new claims 16 and 17 which more clearly differentiate the present invention from that taught by Moser et al. Claims 16 and 17 are drawn to a storage device for medical swabs which consists essentially of an envelope formed by a flexible base foil and a flexible cover foil, between which are provided adjacently disposed chambers whose size is determined by the number and size of the swabs to be stored. In this device, the flexible base foil and the flexible cover foil are integrally joined in areas between the chambers so that chambers can be broken upon pressure on the flexible cover foil.. Support for these new claims can be found throughout the specification and in particular at page 2.

In contrast, Moser et al. disclose a childproof packaging design which is more extravagant than the packaging of the present

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invention. In their design, an additional cavity is incorporated into the base foil so that the cover foil can be grasped and peeled off when the individual tablet package is severed from the whole pack.

① The MPEP is quite clear; the prior art can not anticipate the claimed invention if there is any structural difference. See specifically MPEP § 2114. The instant claimed invention does not contain nor does it require the additional cavity for opening of the packaging as taught by Moser et al. Thus, there are clearly structural differences between the invention of Moser et al. and that now claimed so that Moser et al. does not anticipate the instant claimed invention.

Further, modification of the invention of Moser et al. to exclude the additional cavity would change the principle of operation of this invention. Thus, in accordance with MPEP § 2143.01, the teachings of this reference are also insufficient to render the claimed invention obvious.

Therefore, withdrawal of the rejections under 35 U.S.C. § 102(b) and 103(a) over the teachings of Moser et al. is respectfully requested.

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IV. Conclusion

Applicant believes that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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